



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,503	10/11/2001	Jean-Pierre Tschudi	0820/1D991US 1	2703

7590 12/24/2002

DARBY & DARBY P.C.
805 Third Avenue
New York, NY 10022

EXAMINER

LANGEL, WAYNE A

ART UNIT	PAPER NUMBER
----------	--------------

1754

DATE MAILED: 12/24/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

977503

Applicant(s)

Tschudi

Examiner

Lange

Group Art Unit

1754

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-10 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-10 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/000113
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit 1754

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 8-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DE 1,014,975 or DE 4,444,745 or European 506,139 in view of Ghelfi. DE '975 and DE '745 both disclose treating a waste, specifically biological waste such as sewage sludge, using a screw extruder to provide high mechanical pressure and high frictional and warping forces inherently increasing the temperature to render the biowaste hygienic and germ-free to produce a useful compost. Biological waste would be an obvious choice for the biological waste which is treated. European '139 discloses treating a waste using shearing, kneading, and pulverizing forces to provide high mechanical pressure and high frictional and warping forces inherently increasing the temperature to render the waste hygienic and germ-free to produce a useful compost. (See the Abstract.) Biowaste and wet-selected household garbage are possible wastes as disclosed in column 2, lines 36-50. The differences between the

processes disclosed in the primary references, and that recited in claims 1-6 and 8-10, are that the primary references do not specifically disclose that ferrous parts should be magnetically removed from the municipal wastes before the treatment step, and that the slurry should be dried prior to the thermal mechanical treatment. Ghelfi discloses a method for dehydrating organic wastes prior to mechanical pressure treatment of the waste to produce a germ-free product. (See the Abstract and column 1, line 45 - column 3, line 19.) Ghelfi specifically discloses at column 2, lines 12-14 that magnetic metallic substances are eliminated by the use of a magnetic separator. It would be prima facie obvious from Ghelfi to modify the process of DE '975 or DE '745 or European '139 by magnetically removing ferrous parts prior to forming a slurry of the municipal waste, since Ghelfi would suggest to one of ordinary skill in the art that metallic substances are not conducive to the formation of a compost, and further establishes that magnetic metallic substances are conventionally removed from a municipal waste by the use of a magnetic separator. It would be further obvious from Ghelfi to dry the waste of DE '975 or DE '745 or European '139 because Ghelfi teaches that one should dry the waste prior to mechanically treating for the purpose of reducing moisture content which stops rapid biological and chemical processes (column 1, lines 4-28). Moreover, the process and waste stream

Art Unit 1754

of Ghelfi are analogous to the processes and waste streams of the primary references, thus providing motivation to one of ordinary skill in the art to combine the references.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE '975 or DE '745 or European '139 in view of Ghelfi as applied to claim 1 above, and further in view of Timmenga. Timmenga discloses that wet materials such as biosolids and vegetable matter need to be "bulk" with dry material such as wood chips before composting. (See column 1, lines 44-47.) As Timmenga describes that this is well-known in the art, it would be further obvious to add additional dry materials, such as vegetable matter, to the waste of DE '975 or DE '745 or European '139 to improve the quality of the final compost.

Claims 1-10 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 3, it is indefinite as to whether "the waste" would necessarily be the "unsorted municipal waste" as recited in line 1. In line 7, there is no antecedent basis for "dried slurry", since the claim does not recite a drying step. The recitation of "high mechanical pressure" and "high frictional forces" renders the scope of the claims vague and indefinite, since the word "high" is a relative

term, it is not clear as to where the line of demarcation would be between "high" and "low". Also in claim 1, it is indefinite as to how high the temperature would have to be increased in order to be increased "substantially". In claim 2, the recitation of "one of . . ." is improper Markush terminology. Also in claim 2, it is indefinite as to what steps would be involved in "the present method". In claim 3, the recitation of "one of the . . ." is improper Markush terminology. In claim 10, it is indefinite as to what would constitute a "high-quality recycled humus of Maturity Class V", since the standard for "Maturity Class V" could change over the course of time.

Gilberto and Grube et al. are made of record for disclosing methods for treating municipal waste, wherein ferrous materials are separated from the waste by the step of magnetic separation. (See the Abstract and Figure 1 of each reference.)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne A. Langel whose telephone number is (703) 308-0248. The examiner can normally be reached on Monday through Friday from 8 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can

Serial No. 09/977,503

-6-

Art Unit 1754

be reached on (703) 308-3837. The fax phone number for this Group is (703) 305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

WAL:cdc

December 18, 2002

WAYNE A. LANGE
PRIMARY EXAMINER